


Honorable Bruce A. Markell
United States Bankruptcy Judge



Entered on Docket
July 09, 2013

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Counsel for Creditor Denly Utah Coal, LLC

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In Re:) Chapter 11
)
AMERICA WEST RESOURCES, INC., et al,) *Jointly Administered Under*
) Case No. BK – 13-10865 bam
Debtors.)
) **ORDER DISMISSING CASES**

On June 30, 2013, this Court's Order to Show Cause as to Why Case Should Not be
Converted to a Chapter 7 Case or Dismissed [Dkt. No. 280] (the "Show Cause Order") came on
to be heard. The Court finds that proper notice of the Show Cause Order and the hearing thereon

1 was provided to the appropriate parties in interest. After considering the pleadings, the evidence
 2 and the argument of counsel, the Court finds that this case should be dismissed effective June 27,
 3 2013 if this Court's order otherwise becomes effective within ten days after entry.

4 Accordingly, the Court incorporates its findings of facts and conclusions of law which it
 5 orally placed upon the record pursuant to Bankruptcy Rule 7052, and enters its Order as follows:

6 IT IS THEREFORE ORDERED that subject to the next paragraph, that this case,
 7 consisting of the Bankruptcy proceedings of America West Resources, Inc., Hidden Splendor
 8 Resources, Inc., America West Marketing, Inc. and America West Services, Inc. is hereby
 9 DISMISSED.

10 IT IS FURTHER ORDERED that notwithstanding the above dismissal, that this Court
 11 retains jurisdiction for the purposes of addressing the employment of Illyssa Fogel and
 12 determining the amounts owing, if any, on account of any allowable fees of Illyssa Fogel.

13 IT IS FURTHER ORDERED that the following monies presently being held in the
 14 IOLTA trust account of Graves Dougherty Hearon & Moody, P.C. ("GDHM") shall be paid
 15 from the Debtors' equipment sale proceeds in the amount of \$1,250,000 on the earlier of this
 16 Order becoming final or, for professional fees, the orders approving such fees becoming final:

17 (a.) Flaster/Greenberg \$252,482.74

18 (b.) CFCC Partners, LLC \$164,899.11

19 (c.) Ambrish S. Sidhu \$ 16,691.99

20 (d.) Any US Trustee Fees Due

21 (d.) Denly Utah Coal, LLC \$815,926.16 or any lesser remainder amount in
 22 the GDHM IOLTA account

23 IT IS FURTHER ORDERED that after each amount is paid to the respective party named
 24 above, that GDHM shall be released as a bailee to such party for the sum paid and that upon all
 25 monies being properly distributed as set out above, that GDHM will be completely released as a
 26 bailee for the \$1,250,000 sum so deposited.

27 IT IS SO ORDERED.
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1 PREPARED AND SUBMITTED:

2 DOWNEY BRAND, LLP

3 By: /s/ Sallie B. Armstrong
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5 100 W. Liberty Street, Suite 900
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7 ATTORNEY FOR DENLY UTAH COAL, LLC

8 GRAVES DOUGHERTY HEARON & MOODY, PC

9 By: /s/ James V. Hoeffner
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12 Austin, TX 78701
13 ATTORNEY FOR DENLY UTAH COAL, LLC

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1 In accordance with LR 9021, counsel submitting this document certifies as follows
(check one):

2 ☐ The court has waived the requirements set forth in LR 9021.

3 ☐ This is a Chapter 7 or 13 case, and either with the motion, or at the hearing, I have
4 delivered a copy of this proposed order to all counsel who appeared at the hearing, any
5 unrepresented parties who appeared at the hearing, and any trustee appointed in this case,
6 and each has approved or disapproved the order, or failed to respond, as indicated below
(list each party and whether the party has approved, disapproved, or failed to respond to
the document).

7 ☒ This is a Chapter 9, 11, or 15 case, and I have delivered a copy of this proposed
8 order to all counsel who appeared at the hearing, any unrepresented parties who appeared
9 at the hearing, any trustee appointed in this case, and each has approved or disapproved
the order, or failed to respond, as indicated below (list each party and whether the party
has approved, disapproved, or failed to respond to the document):

10 Flaster/Greenberg PC (Debtors' Counsel): **Approved**
11 Rollin G. Thorley, Esq: **Approved**
12 Counsel for Alexander Walker: **Approved**
13 Illyssa Fogel (Prior Debtors' Local Counsel): **Approved**
14 Ryan A. Anderson: **Approved**

15 ☐ I certify that I have served a copy of this order with the motion, and no parties
16 appeared or filed written objections.
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